

Medical Discharge for Members of the Police Force

This document is to be provided to a medical specialist who is requested by Mercer Administration on behalf of SAS Trustee Corporation (STC) to provide a medical report on a member of the Police Superannuation Scheme (PSS) who is seeking a medical discharge from the NSW Police Force.

1. Benefits payable on medical discharge from the Police Force

Members of the NSW Police Force who joined before 1 April 1988 are entitled to apply for medical discharge benefits under the *Police Regulation (Superannuation) Act 1906*.

There are 2 types of medical discharge benefits. If the applicant is medically discharged and:

1. their incapacity **is not work related**, the benefit payable is either a lump sum or pension, the amount of which depends on the number of years service as a police officer, or
2. their incapacity **is work related** (hurt on duty or HOD), the benefit payable is a life pension that can be increased to up to 100% of their salary as a police officer at the time of their medical discharge if they satisfy certain criteria for such an increase. This is called an HOD pension.

2. Criteria for entitlement to a medical discharge

Criteria for medical discharge

In determining whether an applicant can be medically discharged, the following criteria must be satisfied.

1. the applicant is found to be incapable of personally exercising the *functions of a police officer*;
2. the applicant presently suffers from a specified medical condition or conditions; and
3. the applicant's incapacity to personally exercise the *functions of a police officer* is found to be due to the specified medical condition or conditions.

Criteria for HOD pension

If medical discharge is approved, eligibility for a HOD pension will depend on whether the Commissioner of Police determines that the medical condition that caused the applicant's incapacity was itself caused by a HOD injury or illness.

It is important to note that, although a medical discharge benefit could loosely be classified as an incapacity benefit, it is not one that would ordinarily be determined on the basis of the applicant being "totally and permanently incapacitated" for any gainful employment.

3. Medical opinion to be based on probability

STC, in making a decision as to an applicant's incapacity and entitlement to a medical discharge benefit, is to have regard to medical advice.

The medical report that will assist STC to make the relevant decisions should provide an opinion that is based on the probability of a certain matter rather than the mere possibility of it.

If you are unable to make an assessment on a particular matter, you should say so in the report and explain why.

4. Matters to consider when providing the written medical report

You are asked to provide a written report drawing on the following:

1. a detailed medical history from the applicant;
2. a full clinical examination of the applicant;
3. any medical documents provided to you;
4. the information provided in the applicant's Application Form (PSS Form 11) that is provided to you; and
5. your examination and interview of the applicant.

Please refer to any reports that you may rely upon in arriving at your opinion.

5. Questions to be answered and suggested report format

You should provide your report on your letterhead. A suggested format is provided for you to include the relevant information in your report. If you would like to use this format, you can download a Word document from the website at <https://www.statesuper.nsw.gov.au/pss/advice-and-tools/forms-and-factsheets> under **Information for health professionals**.

(on doctor's letterhead)

Report on medical discharge applicant

Medical history and findings

Date of examination:...

Applicant's details (name, DOB, address):...

General history of the applicant (including dates of injuries/medical conditions, brief history of circumstances of injuries/medical conditions):...

Clinical history of applicant (summary of injuries received/medical conditions experienced and diagnoses made, summary of all treatment provided, details and dates of clinical investigations carried out, details of any previous or subsequent injuries, condition or abnormality):...

Examination findings (including list of injuries/medical conditions, findings on comprehensive clinical examination including negative findings, comments on consistency of presentation, and where appropriate, how this compares to medical reports and other material sighted):...

Answers to questions*:

Part One - Questions addressing medical discharge criteria

1. Is the applicant currently incapable of personally exercising the functions of a police officer? If so, how is this apparent?
2. What medical conditions does the applicant have?
3. Is one or more of the medical conditions referred to in your answer to Question 2 causing or contributing to the applicant's incapacity? If so, please identify which ones and explain how.
4. Please identify the injury or illness that caused each of the medical conditions identified in your answer to Question 3.
5. What is your prognosis for each medical condition identified in your answer to Question 3?

Part Two - General questions

6. If applicable, please explain why your conclusions differ from those of other reports.
7. If you are unable to make an assessment of any of the questions, please say so and explain why.
8. Please make any further comments that you think are relevant on the condition or fitness for employment of the applicant.
9. Please indicate if you have any objection to this report being released directly to the applicant and explain why.

Statement of compliance with Expert Witness Code of Conduct contained in Schedule 7 of the *Uniform Civil Procedure Rules 2005*.

* Please refer to the enclosed Notes on Medical Discharge Questions.

NOTES FOR ANSWERING THE QUESTIONS (PSS MEDICAL REPORT 11)

PART ONE – Questions addressing medical discharge criteria

Question 1: Is the applicant currently incapable of personally exercising the functions of a police officer? If so, how is this apparent?

Matters to take into account

- The meaning of “functions of a police officer” as set out at the end of these Notes.
- The functions the applicant is unable to perform because of their medical condition – refer to the answer to Q15 of the Application Form.
- Any sick leave taken by the applicant and any restrictions on their functions – refer to the answers to Q16(e) and (f) of the Application Form.
- Information provided to you during your interview with the applicant.
- Any records or reports, including sick leave and rehabilitation reports provided to you.

Matters to address in your opinion

If you are of the opinion that the applicant **is incapable** of exercising the functions of a police officer, please explain:

- How the applicant's incapacity to exercise those functions is apparent.
- What functions you consider the applicant is not able to perform or is restricted in performing and how this is apparent.

If you consider the applicant **is not incapable**, please explain why.

Question 2: What medical conditions does the applicant have?

Matters to take into account

- The medical conditions the applicant has identified – refer to the answer to Q14 of the Application Form.
- Any other medical conditions that you believe the applicant has following your examination of the applicant.
- Any records or reports, including sick leave records, provided to you.

Matters to address in your opinion

If you are of the opinion that the applicant does have a medical condition, please describe:

- The exact nature of each medical condition in appropriate medical terms. Please specify each condition and if a condition is bilateral i.e. affecting both knees or ankles or shoulders etc, please diagnose the injury to each joint or side individually.
- How long the applicant has had each medical condition.

Question 3: Is one or more of the medical conditions referred to in your answer to Question 2 causing or contributing to the applicant's incapacity? If so, please identify which ones and explain how.

Matters to take into account

- The medical conditions you identified in your answer to Question 2.
- The medical conditions the applicant has indicated caused or contributed to their incapacity – refer to the answer to Q14 of the Application Form.
- The functions the applicant has indicated they cannot

perform because of their medical condition – refer to the answer to Q15 of the Application Form.

- Any sick leave or restrictions on the functions of the applicant – refer to the answers to Q16(e) and (f) of the Application Form.
- Any rehabilitation or injury management program the applicant has participated in – refer to the answer to Q19 of the Application Form.

Matters to address in your opinion

If you are of the opinion that one of the applicant's medical conditions **is the cause** of their incapacity, please:

- a) Identify each medical condition you consider is causing the applicant's incapacity.

- b) Describe how each medical condition is causing or contributing to the applicant's incapacity to exercise the functions of a police officer.

If you are of the opinion that the applicant's medical condition **is not causing** or contributing to the applicant's incapacity, please explain your answer.

Question 4: Please identify the injury or illness that caused each of the medical conditions identified in your answer to Question 3.

Matters to take into account

- a) Any injury or illness (whether or not work related) that the applicant claims might have caused or contributed to their medical conditions – refer to the answer to Q16 of the Application Form.
- b) Any relevant information from your interview with the applicant.
- c) Whether any injury has been exacerbated since it first occurred.
- d) The treatment of the injury and the history of recovery.

Matters to address in your opinion

If you are of the opinion that there **is a causal relationship** between one or more of the injuries identified by the applicant and the medical condition causing their incapacity, please include:

- a) A description of the injury or illness that caused or contributed to each medical condition of the applicant.
- b) The approximate date on which you think the injury or disease might have occurred.
- c) Whether the injury has been exacerbated and, if so, when such exacerbation may have occurred.
- d) In what way and to what extent the injury caused or contributed to the medical condition.

If, in your opinion, there **is no causal relationship** between any of the injuries identified by the applicant in their answer to Q16 of the Application Form and the medical condition you identified in your answer to Q3 as causing or contributing to the applicant's incapacity, please say so and explain your answer.

Question 5: What is your prognosis for each medical condition identified in your answer to Question 3?

Matters to address in your opinion

In respect of each medical condition suffered by the applicant that you consider is causing or contributing to their incapacity, please give your opinion on:

- a) The exact nature of each medical condition in appropriate medical terms. Please specify each condition and if a condition is bilateral i.e. affecting both knees or ankles or shoulders etc, please diagnose the injury to each joint or side individually.
- b) Whether there is likely to be any improvement and, if so, the extent of expected improvement and how long such improvement may take.

- c) The prospect of the applicant's full recovery.
- d) The need for any future treatment and likely outcome.

PART TWO - General questions

Question 6: If applicable, please explain why your conclusions differ from those of other reports.

If your opinion differs in any way from any of the other reports provided to you, please explain why your opinion is different.

Question 9: Please indicate if you have any objection to this report being released directly to the applicant and explain why.

Comments in your report may not support the applicant's claim for a medical discharge benefit. If this is the case, we will want to give your report to the applicant so they have the opportunity of addressing those comments.

In any case, you may think it is not in the applicant's best interests to release the report to them.

Please indicate if you have any objection to the release of your opinion to the applicant.

If you do object to the report being released to the applicant, please indicate why.

What are "functions of a police officer"?

Functions of a Police officer means the functions of a Police officer referred to in section 14(1) of the *Police Act 1990*. These functions include (but are not limited to) the functions of a constable. To be capable of personally exercising the functions of a constable, a person is expected to be able to undertake the following activities and exercise the following skills:

- engage in effective day-to-day contact with the public (i.e. demonstrate personal attributes such as patience, conflict resolution and decision-making skills, empathy, tolerance, assertiveness, self-control, emotional stability,
- ability to work with others;
- conduct inquiries about matters of concern;
- render a variety of emergency assistance;
- demonstrate the ability to:
 - exercise discretion and judgement in the exercise of policy powers;
 - observe and memorise effectively;
 - operate effectively in stressful, physically demanding and rapidly changing situations;
- undertake a range of activities including:
 - driving police vehicles;
 - getting in and out of cars;
 - standing or sitting for long periods;

- running and negotiating obstacles to pursue and effect an arrest of suspected offenders;
- physically restraining someone and taking action to overcome the will of others to resist;
- exercising a range of tactical options from mere presence to lethal force and having the ability to exercise discretion and judgement for that purpose,
- communicate effectively.

In the case of a Police officer who resigned, retired or was discharged from the *Police Force* before **30 June 2006**, the relevant test for incapacity is not incapacity to personally exercise the functions of a Police officer at the date of resignation, retirement or discharge, but instead is incapacity to discharge the duties of office (as a Police officer) at the date of resignation, retirement or discharge.

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24/09/2024

More information

If you need more information, please contact us:

Telephone: **1300 130 097** (for the cost of a local call, unless calling from a mobile or pay phone)
8.30 am to 5.30 pm, Monday to Friday.

Personal interviews: Please phone 1300 130 097 to make an appointment.

Postal address: State Super, GPO Box 2181, Melbourne VIC 3001

Internet: www.statesuper.nsw.gov.au

Email: enquiries@stc.nsw.gov.au